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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,420	09/19/2003	Richard D. Fowler		7447

22442 7590 03/24/2005

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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,420

Applicant(s)

FOWLER ET AL.

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I. in the reply filed on Jan. 10, 2005 is acknowledged.

Claim 20 has been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on Jan. 10, 2005.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the adhesive defined in claims 1 and 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 12-19 are misdescriptive since the upper end portion does not approximate the size of the shelf, i.e. it is not the same length of the shelf. In regard to claim 12, lines 1 and 2, it is not clear whether the label sheets include the label sheet defined in claim 1 and whether the line of weakness includes the line of weakness defined in claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gelsinger et al. (U.S. Patent No. 5,958,536) in view of Dronzek, Jr. et al. (U.S. Patent No. 5,543,191).

Gelsinger et al. shows in figures 1-2 a "shelf talker" comprising:

An adhesive layer (110) having upper and lower end portions (120,130) and first and second faces, said first face of said label sheet being adapted to have product information printed

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thereon, the label sheet having a line of weakness (see column 3, lines 20-25) formed within said label sheet intermediate the upper and lower end portions so the upper and lower end portions may be selectively separated from one another, and a liner sheet (160) operatively coupled to the adhesive and the second face of the label sheet. It is not clear whether the adhesive layer (110)/label sheet of Gelsinger et al. includes a label sheet and an adhesive layer on the bottom surface of the label sheet. Dronzek shows in figures 1-3A that it is conventional to make an adhesive label in the form of a label sheet (8,10) having an adhesive on the bottom surface thereof, see column 4, lines 41-45. In view of the teachings of Dronzek it would have been obvious to one in the art to modify Gelsinger et al. by making the adhesive layer (110) in the form of a label sheet having adhesive on the bottom surface of the label sheet since this would allow indicia to be printed on the adhesive layer (110) in an easier manner and would create a more durable and aesthetically pleasing label. In regard to claim 2, Gelsinger et al. discloses the use of a line of weakness (see column 3, lines 26-32) in the liner sheet to define a secondary liner. In regard to claim 3, Gelsinger et al. shows in figure 2 that the secondary liner (170) is located closely adjacent to the lower end portion. In regard to claims 4 and 5, Gelsinger et al. shows in figure 2 that the size and shape of the secondary liner (170) is approximately the shape and size of the lower end portion and slightly smaller. In regard to claim 6, the label of Gelsinger et al. would work as disclosed in claim 6. In regard to claim 7, as broadly defined, the upper end portion of Gelsinger et al. would approximate the shape and size of particular shelf, i.e. a shelf similar to the size shown in the applicant's figure 3. Further, it is considered within one skilled in the art to vary the particular size of the upper portion as desired, i.e. the size of the upper portion would be made based upon the size of the article in which the upper portion is

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going to be adhered to. In regard to claims 8,9,16, and 17, Dronzek, Jr. et al. discloses the idea of making the release liner from a non-curl material, i.e. polypropylene, see column 5, lines 15-25 and column 6, lines 9-34. In view of the teachings of Dronzek, Jr. et al. it would have been obvious to one in the art to modify Gelsinger et al. by making the release liner from a non-curl material (polypropylene) since this would help to prevent the label and label sheet from curling which would allow the labels to be removed from a label sheet in an easier and faster manner and would allow the labels to be applied to a surface in an easier and faster manner. In regard to claims 10 and 18, the particular method used to print the information on the label is not a patentable feature in an article claim. In regard to claims 11 and 19, the particular indicia placed on the lower end portion is not a patentable feature, any type of information can be placed on the lower end as desired. In regard to claim 12, Gelsinger et al. does not disclose placing a plurality of label sheets on the liner. Dronzek, Jr. et al. shows in figure 1 the idea of placing a plurality of label sheets (4) onto a liner (6). In view of the teachings of Dronzek, Jr. et al. it would have been obvious to one in the art to modify Gelsinger et al. by placing a plurality of the label sheets onto the liner since this would allow a plurality of the label sheets to be held, transported, and stored in an easier and more convenient manner. In regard to claims 13-15, in order to function as defined in Gelsinger, et al., each of the labels would have to include an adhesive on the bottom surface and lines of weakness formed on the release liner and have a size slightly smaller than the lower end portion.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
March 17, 2005